

**MINUTES OF THE MEETING OF THE BOARD OF TRUSTEES  
OF THE  
TAMPA FIRE & POLICE PENSION FUND  
3001 North Boulevard Tampa, FL 33603 (813) 274-8550  
Thursday, August 25, 2011 1:00 p.m.**

The Board of Trustees of the City Pension Fund for Firefighters and Police Officers in the City of Tampa met in the Pension Office Conference Room on Thursday, August 25, 2011 at 1:00 p.m. for a regular meeting with the following members present:

P.J. Gray, Chairman  
Wesley Adwell, Vice Chairman  
Sharon Fox, Secretary  
Mark Bogush  
Richard Griner

Mark McRae  
Patrick Lynch  
Dennis Rogero  
Roger Strout

Also present were Mr. Ron Cohen, Board Counsel, Mr. Mark Lenker, External CPA, and active and retired plan members.

Minutes

1. Approved the minutes of the July 28, 2011 board meeting. Tiffany Corry, recording secretary, addressed some corrections to the minutes. 1) Page 4, item 9c, 3<sup>rd</sup> line: "suggested" was corrected to "suggestion" 2) Page 7, item 16, 3<sup>rd</sup> line: "FPTTA" was corrected to "FPPTA" and 3) Page 7, item 17, 1<sup>st</sup> line: "pensionboard" was corrected to "pension board." **It was moved by Mr. Lynch, seconded by Mr. Adwell and by unanimous vote to approve the minutes of the July 28, 2011 board meeting as corrected.**

**Consent Agenda** Items on the consent agenda shall be acted upon in one motion. If an item requires additional discussion, that item shall be removed from the consent agenda for discussion. [Items 2 – 6] **It was moved by Mr. Lynch, seconded by Ms. Fox and by unanimous vote to approve consent agenda items 2 through 6.**

2. Ratified pension benefits.
3. Approved payment to Board Counsel R. Cohen for legal services rendered during July 2011 in the amounts of:
  - a. \$16,878.63 General Counsel.
  - b. \$3,595.00 Artz lawsuit.
4. Investment Management Performance – Bowen, Hanes & Co., Inc. Noted receipt of the following:
  - a. Investment performance report for the month ended 7/31/2011. Market value of *investments* as of 7/31/2011 was \$1,515,577,462. Investment return as of 7/31/2011 has been +13.5% so far this fiscal year.
  - b. 13<sup>th</sup> Check Account report, invested in Wells Fargo Advantage Government Money Market Fund Institutional Class. Ending market value on 7/31/2011 \$2,141,526.87, yield +0.01%.
  - c. Interim Investment Summary from Jay Bowen dated 8/8/2011.
  - d. Letter from BH&Co. dated 7/19/2011 regarding ConAgra Litigation refund check in the amount of \$14,279.84.
  - e. Addendum distributed at meeting. Market value of *investments* as of 08/24/2011 was \$1,422,516,907. Investment return as of 08/24/2011 has been +6.5% so far this fiscal year.

5. Noted dates and times of quarterly educational workshops to be conducted by Jeff Helms, CRC, CFA, (also includes "F&P Pension 101"), to be held at the F&P Pension office at 3001 North Boulevard on the following dates with the following revolving topics.

Workshops are applicable to all police officers and firefighters, whether they have one day or twenty years on the job. Attendance is encouraged—you don't have to be 'just about to retire' to attend and learn!

November 2, 2011	10:00 a.m. and 5:30 p.m.	"Asset Allocation – What Your
November 3, 2011	10:00 a.m. and 2:00 p.m.	Investment 'Pie' Should Look Like"

6. Noted receipt of the following P&Ps. *Please remove and replace in your Policy & Procedure Manuals.* Electronic version of P&P manual and reference materials project in process.
- 201 – Medical Exam for New Pension Fund Applicants
  - 424 – DROP, also DROP low risk, variable rate option FAQs
  - 702 – Investment Policy
7. Financial Report Presentation by Mark Lenker, Nobles, Decker, Lenker & Cardoso. Market value of *assets* as of 6/30/2011 \$1,578,127,098.

Mr. Lenker noted that the Dow Jones Index has gone down and the corresponding net investment income has also gone down. He added that the fund is currently 99+% invested. Mr. Lenker explained that June contributions are higher because that's when the City match comes into play. He continued that benefits paid are in line, as well as administrative costs. Mr. Lenker pointed out that there are differences between the custodial and investment manager's reports such as pricing differences and non-investable assets. Mr. Lenker began discussing differences between the June 30, 2010 report and the June 30, 2011 report, noting that the differences have a lot to do with the change in market value. He continued that fixed income investments have gone down – long term investments are being called and maturing, and that is why there is an increase in the Treasury bill area. Investment income has gone up, and realized and unrealized gains have gone up. Investment expenses are up, which is to be expected because the fee follows the size of the portfolio. Mr. Lenker continued that other additions come in the way of contributions. Benefits paid are up \$5 million, which is a combination of increases in longevity and the number of DROP payments made. Administrative costs are up, but a major part of that is the timing of the billing, which he expects to get closer in line by the end of the year. He continued that he hasn't looked at July yet, but the market has gone down so there will be some decreases. **It was moved by Ms. Fox, seconded by Mr. Lynch and by unanimous vote to receive and file item 7.**

#### Old Business

8. Status of supplemental pension contracts. As of 8/17/2011, 325 remained outstanding, second notice mailing conducted 8/18/2011.

Mr. Gray noted that he and Mr. Adwell were provided with a list of police officers and firefighters who have not turned in their supplemental contracts, adding that they both plan to send an email out to everyone on those lists.

#### New Business

9. Noted receipt of request to address the board dated 8/16/2011 by G. Stout, President - Tampa PBA requesting access to the fund's actuary for potential benefit enhancements for surviving spouses and minor children of police officers or firefighters killed in the line of duty.

Mr. Stout explained that over the last 3 years, the City of Tampa has lost 3 police officers. He continued that the PBA is considering a benefit enhancement for the widows and children of those killed in the line of duty. Mr. Stout explained that currently, windows receive 50% of the officer's final year's earnings, but if a plan member were to go out on a line of duty disability, he or she receives 65% of their final year's earnings. He added that he has spoken with the president of the IAFF Local 754 (fire union) and they are on board. Mr. Stout explained that the unions would like to present language to raise any current and future widow from 50% to 65% and any minor child from 7% to 15% of the member's final year's earnings. He added that currently there are 21 widows dating back to 1949, 19 are the widows of police officers and 2 are the widows of firefighters. Mr. Stout asked if the Board of Trustees would allow the unions access to the fund's actuary to do a study? **It was moved by Mr. Lynch, seconded by Mr. Griner and by unanimous vote to allow the unions access to the fund's actuary for the study described.**

10. Joint Annuitant – 13<sup>th</sup> Check Eligibility pension contract language clarification request
- Noted receipt of memo dated 6/21/2011 to City and Unions from F&P Pension requesting pension contract language clarification, transmitting 5/18/2011 legal opinion and 5/26/2011 pension board meeting minutes excerpt regarding same.
  - Noted that the deadline for submission of local bills to the local delegation is *noon September 12, 2011*.
  - Request conditional authorization for actuary to prepare letter of no actuarial impact / Actuarial Impact Statement (AIS) prior to Friday 9/9/2011 for submission with the local bill, if taken forward by City and Unions.

Mr. Cohen explained that the question asked of him was if a joint annuitant is also a spouse, is he or she eligible to receive a 13<sup>th</sup> check? Mr. Cohen explained that he had concluded that joint annuitants who are also spouses are not eligible based entirely on the current language of the contract, noting that this has not affected anyone yet. Mr. Cohen explained that this is something that would have to be put into the special act in order for it to be presented to the legislation delegation and then approved. Ms. Campbell noted that the Board asked her to send this information to the City and the unions, which she did several months ago. Thankfully, the unions have the line of duty death potential benefit enhancement to take forward, so that can be a vehicle that this joint annuitant clarification can be attached to. Ms. Campbell continued that part of this means that Mr. Cohen is responsible for putting the draft language into local bill format. She added that there would have to be an actuarial impact statement as required by statute. Ms. Campbell noted that the local delegation deadline is 2-3 months earlier than usual due to redistricting. Ms. Campbell requested conditional authorization for the actuary to prepare a letter of no actuarial impact. **It was moved by Mr. Lynch, seconded by Mr. Griner and by unanimous vote to receive and file item 10a, note item 10b, and give conditional authorization to the Plan Administrator for the actuary to prepare an Actuarial Impact Statement for submission with the local bill if taken forward by the City and Unions (10c) and to direct Mr. Cohen to put the draft language into local bill format.**

11. Noted receipt of listing of upcoming conferences. Disclosure of planned attendance, if any. Mr. Gray disclosed for the IIR's Public Fund Boards Forum in December in New Orleans. Mr. McRae disclosed for the same conference. **It was moved by Mr. Lynch, seconded by Ms. Fox and by unanimous vote to receive and file item 11.**
  
12. Systematic review/reaffirmation of pension board policies.& procedures in increments. Minor revisions or reaffirmation recommended as noted on each policy. 300 series:
  - a. 302 – Filing of Line of Duty Injury Reports  
**It was moved by Mr. Lynch, seconded by Mr. Griner and by unanimous vote to approve P&P 302 as noted.**
  
  - b. 303 – Medical Attention LOD Injury Reports  
**It was moved by Mr. Lynch, seconded by Mr. Griner and by unanimous vote to approve P&P 303 as noted.**
  
  - c. 305 – Unauthorized Sports Activity Injuries  
**It was moved by Mr. Lynch, seconded by Mr. Griner to reaffirm P&P 305. After brief discussion, the motion passed unanimously.**
  
  - d. 306 – Portal to Portal Pension Coverage  
Mr. Lynch opined that items 4b & 4e of policy 306 should address staff privileges. He continued that item 4c talks about going to the academy or firing range when ordered by the department, but asked if plan members would be covered if they were going to one of those places voluntarily? He explained that the department has a policy that allows officers to use their city cars to go to a firing range, school, etc. Mr. Lynch also brought up the 2009 discussion about seatbelt usage, and suggested adding an item 7 to policy 306 that covers Mr. Cohen's legal opinion. He continued that the legal opinion states that the Board of Trustees can consider whether failure to wear the seatbelt constitutes gross negligence and said what that language means to him is that if you're not wearing a seatbelt, you will not receive a disability pension. Mr. Lynch explained that he just wants the meaning of the policy to be that failure to wear a seatbelt is a factor that can be considered, so that it mirrors Mr. Cohen's legal opinion. Ms. Campbell suggested leaving item 6 as is and then add item 7 so that it says the same thing differently. She added that for items 4b&c she would need a police officer to tell her what to add in order to include staff privileges and the applicable Standard Operating Procedures (SOP) language. **It was moved by Mr. Lynch to table items 12d & 12e until next month.** Mr. Bogush, regarding the seatbelt issue, opined that there is intent in most laws. He continued that driving to or from work in your city car does not mean that there will be a duty to act, but once there is reason to act, the seatbelt can come off. Firefighters must wear their seatbelts unless there is a duty to act, such as performing rescue duties in the back of a rescue vehicle. Mr. Gray opined that there are so many situations when an officer is forced not to wear a seatbelt, and he would not like for the Board to write a policy that is too restrictive that would be harmful to plan members in those instances. Mr. Griner pointed out that the punishment for failure to wear a seatbelt is only \$101, non-moving traffic violation. Mr. Lynch explained that there was a case where a disability applicant was not wearing her seatbelt, and the Board took into consideration the circumstances. He added that he is trying to preserve institutional knowledge. Mr. Cohen explained that failure to wear a seatbelt is one of many factors which the jury, the Board of Trustees, considers. Ms. Campbell added that the Board considers all facts and is free to give whatever weight they feel

appropriate. **The motion to table item 12d & 12e was seconded by Mr. Strout and passed by unanimous vote.**

e. 307 – Definition of “In The Service” Pension Coverage

f. 308 – Special Duty Sporting Events

**It was moved by Mr. Lynch, seconded by Mr. Adwell and by unanimous vote to reaffirm P&P 308.**

g. 312 – Authorized Extra Duty Service

**It was moved by Mr. Lynch, seconded by Mr. Adwell and by unanimous vote to approve P&P 312 as noted.**

13. Chair’s call for any new business items from trustees to be placed on next agenda. None.

[Brief recess for Public Comment cards to be turned in from 2:05 p.m. to 2:11 p.m.]

[Mr. Rogero exited at 2:06 p.m.]

14. Chair’s report. None.

15. Attorney’s report. None.

16. Plan Administration - F&P pension office priorities, projects, deadlines

Ms. Campbell announced that since the presumption became applicable to our plan, 19 out of 336 disabilities were granted based upon the presumption language (6% in total). She added that currently, we only have one person going through the disability process, and he is nearing the end of the process.

Mr. Strout asked if the Board could reconsider the 11:00 a.m. start time for September and October agreed upon last month, such as moving it to noon instead? Mr. Gray noted that the July board meeting lasted almost until 5:00 p.m., noting that long meetings are expected for the next two months because of the implementation of benefit enhancements and policies. Ms. Campbell noted that the actuary should not have to come back in September, so there won’t be more two hour workshops. **It was moved by Mr. Strout, seconded by Mr. Lynch and by unanimous vote to move the meeting start times back to 1:30 p.m. for the months of September and October 2011.**

**Public Comments** Limited to two (2) minutes per person and maximum of ten (10) persons.

*The statements made by speakers under Public Comments are solely the opinion of each speaker and do not necessarily reflect the views of the Board of Trustees, its staff, or its professionals.*

Jack Ballinger, retired firefighter, addressed the Board regarding items 9 & 10. First, Mr. Ballinger thanked the trustees for their service. Mr. Ballinger explained that he used to sit on the pension board and opined that in the past, every time any change has been rushed to Tallahassee, the Board has regretted the rushed product outcome. He added that now is a great time to start working on next year’s session, not the session that will occur two weeks from now.

Litigation

17. Parker Lawsuit, Case No. 07-007198. Update by board counsel, if any. Nothing to report.
18. Pena Lawsuit, Case No. 08-013997. Update by board counsel, if any. Nothing to report.
19. Artz Lawsuit, Case No. 07-012048. Noted receipt of the following:
  - a. Order Denying Plaintiffs' Motion for Rehearing on Order Granting Motion to Dismiss and Request for Clarification and Full Order received by F&P Pension 8/4/2011.  
Mr. Cohen explained that this order steams from the Judge granting the Motion to Dismiss of the Board, the City and the unions. The Plaintiff chose not to amend, but asked for rehearing, which the Judge denied.
  - b. Defendant's Motion for Sanctions Pursuant to F.S. 57.105 received by F&P Pension 8/10/2011.  
Mr. Cohen noted that this states that the Board believes their case against us is without merit.
  - c. Notice of Appeal by Plaintiffs received by F&P Pension 8/12/2011.  
Mr. Cohen noted that there's some question on whether or not the order the Judge entered is subject to appeal or not. He added that Mr. Gonyea's office is looking into that matter.
  - d. Plaintiffs' Response to Defendant, Board of Trustees of the City Pension Fund's Motion for Sanctions and Costs and Cross Motion for Sanctions received by F&P Pension 8/16/2011.  
Mr. Cohen explained that the Plaintiff's counsel does not believe there should be any sanctions, so they filed for sanctions because we did. He noted that there is a Notice of Appeal pending.

**It was moved by Mr. Lynch to receive and file items 19 a-d.** Ms. Fox asked Mr. Cohen if a Cross Motion for Sanctions is standard? Mr. Cohen responded that it is not standard procedure, and he finds it disappointing. **The motion was seconded by Mr. Adwell and by unanimous vote.**

20. Noted receipt of narrative of each of three cases from Board Counsel Cohen, updated monthly as directed by the board in November 2010. Also noted receipt of legal fees paid to date on each case. **It was moved by Mr. Lynch, seconded by Mr. Griner and by unanimous vote to receive and file item 20.**

Motion to adjourn was made by Ms. Fox at 2:22 p.m.

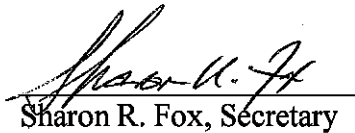
Notice

Any person who desires to appeal any decision of the Board of Trustees with respect to any matter considered at this Board meeting will need a record of the proceedings and for this purpose, may need to ensure that a verbatim record of the proceedings is made which includes testimony and evidence upon which the appeal is based.

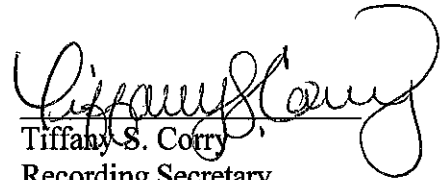
Persons needing a special accommodation to participate in this meeting should contact the F&P pension office at (813) 274-8550 or (888) 335-8550 – toll free, or the Florida Relay Service at (800) 955-8770 – toll free, or dial 711 from any phone (regular phone/land line or cell phone) for the Florida Relay Service. Please make your requests at least five (5) working days before this meeting.



P.J. Gray, Chairman



Sharon R. Fox, Secretary



Tiffany S. Corry  
Recording Secretary

2011 Board meeting schedule

September 22, 2011	1:30 pm start
October 27, 2011	1:30 pm start
November 17, 2011*early due to holidays	1:30 pm start
December 15, 2011*early due to holidays	1:30 pm start